

**Tennessee Board of Medical Examiners
September 24, 2004**

Teleconference Minutes

A teleconference for the Board of Medical Examiners was held at 2:00 p.m. in the Bureau Conference Room located on the First Floor of the Cordell Hull State Office Building on September 24, 2004.

Members in attendance electronically: Dr. Charles White

Member in attendance: Dr. Engelhardt, Ms. Yeiser

Staff Present: Rosemarie Otto, Executive Director (electronically); Robert J. Kraemer, Jr., General Counsel; Sandra Powell, Administrator; Shelia Bush, Administrator; Marsha Arnold, Unit Manager; Mr. Harry Weddle, Office of General Counsel

A roll call was held to determine if each participant could hear the response of the other. Ms. Arnold stated the meeting was being held to discuss summarily suspending the medical license of Dr. Carl J. Klein. Dr. White made a motion to proceed to conduct the meeting electronically and Dr. Engelhardt seconded the motion. A roll call vote was held to accept the motion and the motion was adopted unanimously.

A motion was made by Dr. White to proceed to conduct the meeting electronically by determining that the matter to be discussed met the following requirements: The subject matter required timely action, the physical presence of all members was not possible considering the period of time required for action, and the participation by some or all of the members of the board by electronic or other means was necessary. Dr. Engelhardt seconded the motion. A roll call vote was held to accept the motion and the motion was adopted unanimously.

Mr. Kraemer reminded the panel that they are charged with protecting the health, safety and welfare of the public. He then asked the members to elect a chair for the proceeding. Dr. Engelhardt made a motion and Dr. White seconded the motion that Ms. Yeiser chair the meeting. A roll call vote was held to accept the motion and the motion was adopted unanimously.

Mr. Weddle gave his opening statement to the panel. He stated that Dr. Klein presents a risk to the public and a dangerous disregard for the safety of the public. Dr. Klein is in violation of TCA 63-6-214(b) (1), TCA 63-6-214(b) (12), TCA 63-6-214(b) (13), TCA 63-6-214(b) (14) and TCA 63-6-214(b) (18). Harry Weddle called as his first witness, Betty Houser, R.N. Ms. Houser testified that on an inspection of the Respondent's office on September 14, 2004, several red bags of bio-hazardous waste and a sharps container were perched directly above the examination

table. During the September 14, 2004 inspection, she also observed a large volume of unsecured medication throughout the office. Respondent reuses octoscope covers and soaks metal vaginal speculums in hot water and then uses 409 for disinfection before reuse. A staff member reported that at one time he put them in a crock pot before reuse. The Respondent stated to Ms. Houser that the autoclave took too much time to use. A staff member reported that the office did not have a sufficient amount of gloves for use by employees. Loose medication was strewn about the office, including in the examination room. These medications are within reach of patients, both adults and children. These medications were also easily accessible to drug-seeking patients. These drugs include pulmonary inhalers, allergy medicines, anti-psychotic drugs, and anti-convulsant drugs. The Respondent keeps expired medication in the office. During the September 20, 2004 inspection, the front office refrigerator was found to include food and medications, some of which was expired. The following medications were found in the refrigerator:

- Tetanus – expiration date 2/02
- Depo-Medrol – expiration date 1/02
- Aurolate Gold salt – expiration date 6/01
- Humalog and Novo-Log Insulin – expiration date 12/05
- Forteo – expiration date 9/04
- Cyanocobalamin – expiration dates 2/02 and 8/03
- Dexamethasone – expiration dates 10/03 and 7/04
- Pneumococcal vaccine – expiration date 5/04
- Phenergan – expiration date 2/02

Also stored in the front office area together:

- Altace – expiration date 5/04
- Augmentin – expiration date 4/98
- Four barrels of bio-hazardous waste

Ms. Houser further testified that expired medications were used in the office until at least August 2004. During the September 20, 2004 inspection, the Respondent's office was found to have an unlocked medication and tool storage room which could be accessible to patients. This room contained four guns, tools, and medications. The Respondent identified one gun as a Belgian shotgun. The other three guns were propped against a wall behind the door. The Respondent stated that one gun had a bullet in the chamber. The medications in the medication and tool storage room were stacked from the floor to the ceiling. Among the medications found were thirty-six (36) packages of Provigil 200 mg, which is a Schedule IV controlled substance. Each package contains seven (7) tablets, making the total number of unsecured Provigil 252 tablets. Two staff members were found to be injured with contaminated needles. In addition, sharps containers near the lab were found to be filled to capacity. A bottle of Vietnamese "snake wine" with a cobra inside is located in the examination room.

Following Ms. Houser's testimony, Mr. Weddle called Larry Arnold, M.D. to testify as to the standard of care in a physician's office. Dr. Arnold stated that Dr. Klein's office in no way met the standard of care for a physician in Tennessee rather it fell well below the standard. He also

testified as to the significance of failing to dispose of hazardous wastes properly, the potential for the spread of sexually transmitted diseases if vaginal speculums are not properly sanitized and possible consequences to a pediatric population of exposure to medications strewn about the office. Following a brief summary by Mr. Weddle, the panel adopted the findings of fact and conclusions of law outlined in the state's proposed order for summary judgment. After further discussions, Mr. Weddle gave his closing statement and asked the Board to summarily suspend the medical license of Dr. Klein. Mr. Weddle handed out a proposed Order of Summary Suspension to the panel for review. Dr. White made a motion to accept the Findings of Fact and Dr. Engelhardt seconded the motion. The motion passed unanimously. Dr. Engelhardt made a motion to accept the Conclusions of Law as written. Dr. White seconded the motion. The motion passed unanimously. Dr. White made a motion to suspend the medical license of Carl J. Klein, MD and Dr. Engelhardt seconded the motion. The motion passed unanimously. Dr. Engelhardt made a motion to accept the policy statement as written and Dr. White seconded the motion. The motion passed unanimously.

Adjourned at 4:00 p.m.

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